

REMARKS

Applicant has studied the Office Action dated January 13, 2010. Claims 1-6, 9-13 and 15-21 are pending. Claims 1, 8, 11, 13, and 21 have been amended and claims 7 and 8 have been canceled without prejudice. Claims 1, 11, and 21 are independent claims. No new matter has been added as the amendments have support in the specification as originally filed.

It is submitted that the application, as amended, is in condition for allowance. Reconsideration is respectfully requested.

Claim for Foreign Priority under 35 U.S.C. § 119

The Examiner acknowledged the Applicant's claim for foreign priority under 35 U.S.C. § 119 and indicated that a certified copy of the priority document had not yet been received. A certified copy of the priority document, Korean application 2001-22428, was mailed to the USPTO on April 2, 2010.

§ 112 Rejections

The Examiner rejected claims 1-13 and 15-21 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner asserted that it is not clear what composition of matter is required to satisfy the condition of "a fulcrum stone" and Applicant is required to demonstrate exactly what is meant by the phrase "fulcrum stone."

The Examiner rejected claims 7, 8, 11, 13, and 21 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner asserted that the limitation of a "five-primary substance stone" having "10% to 20% by weight of a fulcrum stone" renders the claim indefinite as it is not immediately clear what "a fulcrum stone" is.

It is noted that the present application claims priority to Korean application 2001-22428 and the specification was translated from Korean language into English. The Korean word corresponding to the "fulcrum stone" as disclosed in the specification of Korean application 2001-22428 is "대저석." This Korean word is disclosed in the second

paragraph on page 4 of Korean application 2001-22428 (Publication No. 2002-0082700, Publication Date: October 31, 2002). Korean application 2001-22428 also discloses a Chinese name “代赭石” corresponding to the “fulcrum stone” in claim 4 on page 7. Applicant’s agent, Harry Lee, is knowledgeable in the Korean language and submits that a more accurate English translation of the Korean word “대저석” is hematite or haematite, also known as “Dai country red stone.”

According to page 80 of “A Material Medica for Chinese Medicine” (Carl-Herman Hempen, 2009 Elsevier Health Sciences), the chemical name of hematite (“Dai zhe shi” in Chinese pronunciation) is Fe_2O_3 and its variation is *Ocherum rubrum*. Also see Evidence A (Phytology, Sung In Lee, 1986 College of Oriental Medicine, Kyunghee University, Korea) enclosed herewith. More information about hematite can be found at WIKIPEDIA (<http://en.wikipedia.org/wiki/Hematite>). Accordingly, the term “fulcrum stone” has been replaced by “hematite” in amended claims 1, 8, 11, and 21 and support for this amendment can be found at least in the foreign priority document as discussed above.

It is respectfully submitted that the term “hematite” is a term recognized in the art and refers to a particular molecular composition as identified above. It is believed that the amendments to independent claims 1, 11, and 21 address the Examiner’s concerns with regard to the phrase “fulcrum stone.” It is respectfully submitted that the grounds for the rejection have been overcome and it is respectfully requested that the Examiner withdraw the rejection.

§ 103 Rejections

Claims 1 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Daffer (US 6,497,717) in view of Fujino (US 4,680,822), Park (US 6,272,697), Wege (US 5,425,753), and Han (US 3,946,733). This rejection is respectfully traversed.

Claims 2, 4, and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Daffer (US 6,497,717) in view of Fujino (US 4,680,822), Park (US 6,272,697), Wege (US 5,425,753), and Han (US 3,946,733), and further in view of Shimada (US 5,632,768). This rejection is respectfully traversed.

Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Daffer (US 6,497,717) in view of Fujino (US 4,680,822), Park (US 6,272,697), Wege (US 5,425,753), and Han (US 3,946,733), and further in view of Sakurai (JP H-06-181878). This rejection is respectfully traversed.

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Daffer (US 6,497,717) in view of Fujino (US 4,680,822), Park (US 6,272,697), Wege (US 5,425,753), and Han (US 3,946,733), and further in view of Shiu (US 4,203,438). This rejection is respectfully traversed.

Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Daffer (US 6,497,717) in view of Fujino (US 4,680,822), Park (US 6,272,697), Wege (US 5,425,753), and Han (US 3,946,733), and further in view of Kuratomi (US 4,747,841). This rejection is respectfully traversed.

Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Daffer (US 6,497,717) in view of Fujino (US 4,680,822), Park (US 6,272,697), Wege (US 5,425,753), and Han (US 3,946,733), and further in view of Lee (US 6,013,021). This rejection is respectfully traversed.

While it is noted that claims 1-6, 9, and 10 were rejected under 35 U.S.C. § 103(a), claims 7, 8, 11-13, and 15-21 were not rejected over prior art, but rejected only under 35 U.S.C. § 112, first and second paragraphs. Therefore, it is believed that claims 7, 8, 11-13, and 15-21 will be in allowable condition once the alleged enablement requirement and indefiniteness issues are resolved.

In this paper, independent claim 1 has been amended by incorporating limitations of its dependent claims 7 and 8 which have been canceled without prejudice. Further, as discussed above, it is believed that issues with regard to the rejections of independent claims 11 and 21 under 35 U.S.C. § 112, first and second paragraphs have been resolved. Accordingly, it is respectfully asserted that independent claims 1, 11, and 21 are allowable over the cited combination of references and their respective dependent claims also are allowable at least by virtue of their dependency from their respective allowable base claims.

CONCLUSION

In view of the above remarks, Applicant submits that all pending claims of the present application are in condition for allowance. Reconsideration of the application, as originally filed, are requested.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned agent at the Los Angeles, California telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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Enclosure: Evidence A.